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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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AZ CORP COMMISSION
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COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
PAUL NEWMAN
SANDRA D. KENNEDY
BOB STUMP

IN THE MATTER OF THE APPLICATION OF
THE TOWN OF GILBERT TO UPGRADE A
CROSSING OF THE UNION PACIFIC
RAILROAD AT RECKER ROAD IN THE
TOWN OF GILBERT, MARICOPA COUNTY,
ARIZONA, AAR/DOT NO. 741-832-M.

DOCKET NO. RR-03639A-09-0393

PROCEDURAL ORDER

BY THE COMMISSION:

On August 12, 2009, the Town of Gilbert ("Town") filed with the Arizona Corporation Commission ("Commission") an application for approval for the Union Pacific Railroad ("Railroad") to upgrade an existing crossing at Recker Road in the Town of Gilbert, Maricopa County, Arizona at AAR/DOT No. 741-832-M.

Pursuant to A.A.C. R14-3-101, the Commission now issues this Procedural Order to govern the preparation and conduct of this proceeding.

IT IS THEREFORE ORDERED that the request of the Town of Gilbert shall be considered an application for the Railroad to upgrade an existing crossing pursuant to A.R.S. § 40-337, et seq.

IT IS FURTHER ORDERED that the Railroad shall be considered as the Respondent in this proceeding.

IT IS FURTHER ORDERED that the **hearing** on the application shall be held on **November 9, 2009, at 10:00 a.m.**, or as soon thereafter as is practical, at the Commission's offices, 1200 West Washington Street, Hearing Room 1, Phoenix, Arizona.

IT IS FURTHER ORDERED that within five business days of receipt of this Procedural Order, **the TOWN OF GILBERT SHALL PROVIDE THE RAILROAD AND ANY MUNICIPALITY OR INTERESTED PARTY** that may be affected by the application with a copy of the application and this Procedural Order by certified mail.

1 IT IS FURTHER ORDERED that the Commission's Railroad Safety Section ("Staff") shall
 2 prepare a written **Staff Report and associated exhibits** to be presented at hearing and file copies of
 3 them with Docket Control on or before 4:00 p.m. on **October 14, 2009**.

4 IT IS FURTHER ORDERED that any **objections to the Staff Report and associated**
 5 **exhibits** shall be reduced to writing and filed with Docket Control on or before 4:00 p.m. on
 6 **October 26, 2009**.

7 IT IS FURTHER ORDERED that **intervention** shall be in accordance with A.A.C.
 8 R14-3-105, except that all motions to intervene must be filed on or before **October 21, 2009**.

9 IT IS FURTHER ORDERED that **the Town of Gilbert** shall provide **public notice** of the
 10 hearing in this matter, in the following form and style:

11 **IN THE MATTER OF THE APPLICATION OF THE TOWN OF**
 12 **GILBERT TO UPGRADE A CROSSING OF THE UNION PACIFIC**
 13 **RAILROAD AT RECKER ROAD IN THE TOWN OF GILBERT,**
 14 **MARICOPA COUNTY, ARIZONA, AAR/DOT NO. 741-832-M.**
(DOCKET NO. RR-03639A-09-0393)

15 On August 12, 2009, the Town of Gilbert ("Town") filed with the Arizona
 16 Corporation Commission ("Commission") an application for approval for the Union
 17 Pacific Railroad ("Railroad") to upgrade an existing crossing at Recker Road in the
 18 Town of Gilbert, Maricopa County, Arizona at AAR/DOT No. 741-832-M.

19 The application is available for inspection during regular business hours at the offices
 20 of the Commission in Phoenix, at 1200 West Washington Street, Phoenix, Arizona,
 21 and on the internet via the Commission website (www.azcc.gov) using the e-docket
 22 function.

23 The Commission will hold a hearing on this matter commencing on **November 9,**
 24 **2009, at 10:00 a.m.,** at the Commission's offices, 1200 West Washington Street,
 25 Phoenix, Arizona. Public comments will be taken on the first day of the hearing.

26 The law provides for an open public hearing at which, under appropriate
 27 circumstances, interested parties may intervene. Intervention shall be permitted to
 28 any person entitled by law to intervene and having a direct and substantial interest in
 the matter. Persons desiring to intervene must file a written motion to intervene with
 the Commission, which motion should be sent to Applicant or its counsel and to all
 parties of record, and which, at the minimum, shall contain the following:

1. The name, address, and telephone number of the proposed intervener and of
 any party upon whom service of documents is to be made if different than the
 intervener.
2. A short statement of the proposed intervener's interest in the proceeding (e.g.,
 a customer of Railroad, a neighboring property owner, a crossing user, etc.).

1 3. A statement certifying that a copy of the motion to intervene has been mailed
2 to the Applicant or its counsel and to all parties of record in the case.

3 The granting of motions to intervene shall be governed by A.A.C. R14-3-105, except
4 that all motions to intervene must be filed on or before **October 21, 2009**. The
5 granting of intervention, among other things, entitles a party to present sworn
6 evidence at hearing and to cross-examine other witnesses. However, failure to
7 intervene will not preclude any customer from appearing at the hearing and making a
8 statement on such customer's own behalf.

9 If you have any questions about this application, you may contact the applicant at
10 [insert telephone number]. If you wish to file written comments on the application
11 or want further information on intervention, you may write the Consumer Services
12 Section of the Commission at 1200 West Washington Street, Phoenix, Arizona
13 85007, call 602-542-4251 or 1-800-222-7000, or appear at the hearing and make
14 comment.

15 The Commission does not discriminate on the basis of disability in admission to its
16 public meetings. Persons with a disability may request a reasonable accommodation
17 such as a sign language interpreter, as well as request this document in an alternative
18 format, by contacting Shaylin Bernal, ADA Coordinator, voice phone number
19 602-542-3931, e-mail SABernal@azcc.gov. Requests should be made as early as
20 possible to allow time to arrange the accommodation.

21 IT IS FURTHER ORDERED that **the Town of Gilbert** shall cause the above notice to be
22 published at least once in a newspaper of general circulation in the city/county where the crossing is
23 located, with **publication to be completed no later than September 30, 2009**.

24 IT IS FURTHER ORDERED that notice shall be deemed complete upon the
25 mailing/publication of same, notwithstanding the failure of an individual or entity to read or receive
26 the notice.

27 IT IS FURTHER ORDERED that **THE TOWN OF GILBERT SHALL FILE**
28 **CERTIFICATION OF NOTICE WITH THE COMMISSION'S DOCKET CONTROL AS**
29 **SOON AS PRACTICABLE** after the mailing/publication of notice ordered herein has been
30 completed.

31 IT IS FURTHER ORDERED that all parties must comply with Rule 31 and 38 of the Rules of
32 the Arizona Supreme Court and A.R.S. § 40-243 with respect to practice of law and admission
33 *pro hac vice*.

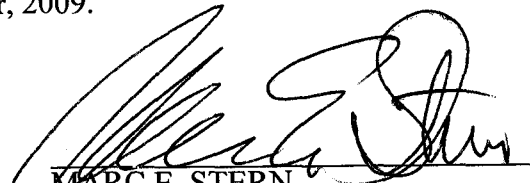
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1 IT IS FURTHER ORDERED that the presiding Administrative Law Judge may rescind, alter,
2 amend, or waive any portion of this Procedural Order either by subsequent Procedural Order or by
3 ruling at hearing.

4 DATED this 1ST day of September, 2009.


MARC E. STERN
ADMINISTRATIVE LAW JUDGE

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9 Copies of the foregoing mailed/delivered
this 1ST day of September, 2009 to:

10 Aziz Aman, Manager of Special Projects
11 UNION PACIFIC RAILROAD COMPANY
12 2073 East Jade Drive
Chandler, Arizona 85286

Janice Alward, Chief Counsel
Legal Division
ARIZONA CORPORATION COMMISSION
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16 Robert Travis, P.E.
17 State Railroad Liaison
18 ARIZONA DEPARTMENT OF
TRANSPORTATION
19 205 South 17th Avenue, Room 357
M/D 618E
Phoenix, Arizona 85007

ARIZONA REPORTING SERVICE, INC.
2200 North Central Street, Suite 502
Phoenix, Arizona 85004

20 Rick Allred
21 TOWN OF GILBERT
22 90 East Civic Center Drive
Gilbert, Arizona 85296

23 Robert Lyons, P.E.
24 AZTEC ENGINEERING
4561 East McDowell Road
Phoenix, Arizona 85008

25 Kelly Roy, Utility Project Coordinator
26 MARICOPA COUNTY DEPARTMENT
OF TRANSPORTATION
27 2901 West Durango Street
Phoenix, Arizona 85009

28
By: 
Debra Broyles
Secretary to Marc Stern